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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,352	02/28/2000	Gunji Tsukuda	NIT-84-02	8320

24956 7590 01/16/2004

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ALEXANDRIA, VA 22314

EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/514,352

Applicant(s)

TSUKUDA, GUNJI

Examiner

JAGDISH N PATEL

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2,4,22-47,52 and 53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,22-47,52 and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 3624

**DETAILED ACTION**

1. This communication is in response to amendment filed 10/28/03.

***Response to Amendment***

2. Claims 2, 4, 22, 31 and 41 have been amended and new claims 52 and 53 have been added and claim 1 has been canceled per request.

3. Claims 2, 4, 22-47 and 52-53 are currently pending and have been examined.

***Response to Arguments/Remarks***

4. Rejection of claims 31-40 under 35 U.S.C. § 101 and rejection of claim 1 under 35 U.S.C. § 102(b) have been withdrawn.

5. Rejection of claims 2, 4, 22, 31, 41 and corresponding dependent claims under 35 U.S.C. § 112 (second) is maintained because the applicant did not fully respond to all deficiencies identified in the pervious office action. For example, paragraph 13 of the office action identified indefiniteness arising from "conditional recitation" such as "an server to be used when commission by an agent is selected on delivery of said goods" (claim 41, p.11 of current amendment).

Art Unit: 3624

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. This action is issued as a non-final action due new ground of rejection not necessitated by the applicant's amendment.

***Claim Rejections 112***

8. Claims 2, 4, 22-47 and 52-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2: The claim is rendered indefinite due to the following deficiencies:

(a) Claim 2 recites limitation:

an agent server for managing commission on the delivery goods by the agent, however, no elements are recited in the claim to realize this functionality. This limitation is therefore treated as non-functional descriptive material without any patentable weight.

(b) Claim 2 further recites limitation:

"means in the agent server for notifying of arrival and departure of the delivery goods to and from the agent

Art Unit: 3624

to at least one of the distribution server or receiver from the agent."

This limitation does not relate to any other limitation of the claim because there is no communication of the (information regarding) arrival and departure of the delivery goods to the agent server. There is no means recited (in the distribution server) which determines the arrival and departure information of goods. In absence of recitation of such means in the claimed delivery system, it is unclear as to how recited means in the agent server can be functional.

The claim is also rendered indefinite because it fails to provide any communication link that would facilitate the notification of arrival and departure of the delivery goods to and from the agent to the distribution server and the receiver. Note also that the recited means of the distribution server for.. receiving a request..from the receiver and means for ..sending the delivery goods information to an agent require that the receiver and the agent be linked via a communication link. Furthermore, the recitation "to and from the agent" to "the distribution sever" or "the receiver" is also rendered indefinite for the same reasons as presented above.

Art Unit: 3624

Dependent claim 52 inherit same deficiencies as parent claim 2.

Claim 4: The claim is rendered indefinite due to the following deficiencies:

Claim 4 recites limitation:

an agent server for managing commission on the delivery goods by the agent, however, no elements are recited in the claim to realize this functionality.

The claim recites means in the distribution server for determining date and time for delivery of goods to the client or outputting delivery goods information of the delivery goods to the agent., this recitation of the means function in alternative renders the claim indefinite because the function performed by the means cannot be ascertained positively.

Claim 4 is also rendered indefinite because the means for notifying of arrival and departure of the delivery goods is functionally related to other elements of the claim. As an example, there is no relationship of the limitation "date and time for delivery of goods" to the limitation "arrival and departure of the delivery goods".

Dependent claim 53 inherit same deficiencies as parent claim 2.

Art Unit: 3624

Claim 22: The claim is rendered indefinite due to the following deficiencies:

The claim recites limitation:

said agent server comprises:

means for processing information for delivery of said goods and means for notifying the agent server of information indicating delivery of said goods do not functionally relate to each other. Is the "information" recited in the notifying means related to the information in the processing means?

Claim 22: means for "determining .. said information transferred from the client apparatus" which lacks antecedent basis in the claim because there is no recitation of a means for transferring information from the client apparatus to the agent server.

Dependent claims 23-30 inherit same deficiencies as parent claim 22.

Claim 31 is rendered indefinite due to the following deficiencies:

claim 31 recites at line 6 that the distribution server is connected to with "said client apparatus through

Art Unit: 3624

a network", whereas the claim also recites at lines 8-12 that the "said client apparatus, said distribution server and said agent server are interconnected with an information transmission network,". This contradictory recitation about the inter-connection of the client apparatus, the distribution server and the agent server renders the claim indefinite.

Furthermore the claim recites limitation "processing information for delivery of said goods" which lacks antecedent basis in the claim. It is unclear as to which information is being processed by the distribution server and what the outcome of the processing step is.

Likewise the limitation "information" in "notifying" and "transmitting" steps also lack antecedent proper basis in the claim. (Note also that the "notifying the agent server of information" and "transmitting the information to said agent server" are essentially redundant limitations in view of the limitation "so that said agent server is able to .." being a non-functional descriptive material and not affording any patentable weight.)

The claim while recites steps of providing a client apparatus, a distribution server and an agent server which are interconnected with an information transmission



Art Unit: 3624

network, (the claim) fails to any functional relationship or linkage of (providing of) the agent server and the client apparatus to the steps performed by the distribution sever.

Dependent claims 32-40 inherit same deficiencies as parent claim 22.

Claim 41 is rendered indefinite due to same deficiencies outlined in claim 31 analyses.

Additionally, claim 41 also contains the following "conditional" functionality which renders it indefinite. The usage of phrase "to be used when" in the aforementioned limitation renders the claim indefinite because the scope of the claimed invention thus recited cannot be ascertained definitively due "conditional" nature of the functionality recited.

Dependent claims 42-47 inherit deficiency of parent claim 41.

Claim 22: The limitation "information for delivery of goods" in limitation "means for processing" lack antecedent basis in the claim. It is noted that the processing means must have access to or provided the information from other element of the system.

Claims 23-30 inherit deficiency of parent claim 22.

Art Unit: 3624

Claims 23-24 recites the limitation "said information of the delivery goods" in line 2 of claim 23. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites limitation "said distribution center" (p. 8 L 8-11, referring to "receiving" step). There is no antecedent basis for this limitation. The claim is void of any recitation of the relationship of the distribution sever to the distribution center.

Claims 32-40 inherit deficiency of parent claim 31.

Claims 42 recites the limitation "said information received by inputting in the client" in lines 5-6. There is insufficient antecedent basis for this limitation in the parent claim. The term "inputting in the client" is unclear since "client" is a user (i.e. a human entity) associated with the client apparatus recited in claim 41.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

Art Unit: 3624

art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 2, 4, 52 and 53 as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls et al (US Pat. 5,631,827) (Nicholls) and further in view of Martin et al. (US Pat.5,960,408) (Martin).

Per claim 2: Nicholls discloses a delivery managing system from a distribution center (Supervisory Manager 104 of Figure 3A) through an agent (carrier represented by one of the Rate servers, see col. 4 L 50-54) to a receiver, comprising:

A distribution sever for managing delivery of the delivery goods ((Supervisory Manager 104 of Figure 3A, also refer to Fig. 6 and pertinent details col. 11 L 60- col. 12 L 10);

An agent server for managing commission on the delivery goods ((carrier represented by one of the Rate servers, see col. 4 L 50-54 );

Data transmission network for connecting said distribution server and said agent server (refer to communication lines in Fig. 5 represented by letters "C" and letter "s", also refer to col. 11 L 60- col. 12 L 10);

Art Unit: 3624

Means in a distribution server for receiving a request  
..from a receiver (refer to col. 7 L 48-57, Shipment  
client);

Means in the distribution sever for sending delivery  
goods information to an agent designated in request (col.  
10 L 42-64, "carrier-oriented information,..shipping rates,  
time in transit information and the like in one or more  
rate servers", inherently the shipping rates etc. depend on  
the delivery goods information and therefore the limitation  
is met by the reference);

Nicholls fails to explicitly suggests that the agent  
server (rate servers of individual carriers) have means for  
notifying of arrival and departure of the delivery goods to  
and from an agent (carrier such as UPS) to a receiver.  
Martin teaches a a delivery managing system which includes  
means for notifying of arrival and departure of the  
delivery goods to and from and agent to the receiver  
(Martin, "customer preferred ship date", "targeted ship  
date" and "date the customer order have to leave the  
supplier site to arrive at the customer's site" col. 3 L  
33- col. 4 L 10),

Art Unit: 3624

It would have been obvious to one skilled in the art at the time the invention was made to have the means for notifying of arrival and departure of the delivery goods to and from an agent (carrier such as UPS) to a receiver incorporated in the rate servers in order that the receiver is notified of the expected delivery of the goods which would enable the receiver to plan receipt of the delivery goods.

#### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

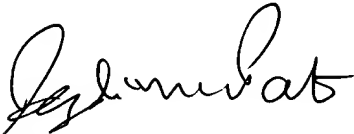
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7<sup>th</sup> Floor, Alexandria VA 22202.

Application/Control Number: 09/514,352

Page 13

Art Unit: 3624

A handwritten signature in black ink, appearing to read 'Jagdish N. Patel', written in a cursive style.

Jagdish N. Patel

(Examiner, AU 3624)

01/08/04